IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 29TH JUNE 2007 / 8TH ASHADHA 1929

Bail Appl..No. 3928 of 2007()

CRIME NO.209/2007 OF CHERPULASSERY POLICE STATION

PETITIONER/2ND ACCUSED

SAIDALVI, S/O MOIDEEN KUTTY,
AGED 61 YEARS, THAZHATETIL HOUSE,
KARUMANAMKURUSSI, CHERPLASSERY, PALAKKAD DISTRICT.

BY ADV. SRI.G.HARIHARAN

RESPONDENTS: COMPLAINANT & STATE

---

1. SUB INSPECTOR OF POLICE,
CHERPULASSERY POLICE STATION,
CHERPULASSERY, PALAKKAD DISTRICT.

2. STATE OF KERALA, REPRESENTED BY
THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.S.U.NAZER

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 29/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

B.A.No.3928 of 2007

Dated this the 29th day of June 2007

O R D E R

Application for anticipatory bail. The petitioner is the father-in-law of the defacto complainant. The defacto complainant had raised allegations against her husband and relatives in a complaint filed before the police. Crime has been registered under Sections 498A and 354 read with 34 I.P.C. Investigation is in progress. The petitioner, the second accused, apprehends arrest at any moment.

2. The allegations raised against the father-in-law - the petitioner herein, are indeed vague. If true, the allegation show great depravity of the mind. However, the learned counsel for the petitioner submits that a court may not lightly swallow all the allegations raised by a strained wife who is too keen to invent reasons to justify her separate residence from her husband and matrimonial home. At any rate, the allegations raised are such which can be raised by anyone with vexatious intent. The learned counsel for the petitioner further submits that, at any rate, it is not necessary at all to insist on arrest and incarceration of the petitioner for a proper investigation of the crime, considering the nature of the allegations raised.

3. The learned Public Prosecutor opposes the application. The learned Public Prosecutor reiterates that the allegations are grave and a serious view is liable to be taken against such allegations.

4. Having rendered my anxious consideration to all the relevant inputs, I am certainly of the opinion that this is a fit case where directions under Section 438 Cr.P.C can be issued in favour of the petitioner. In coming to this conclusion, I take note of the strained relationship of the spouses and the fact that the defacto complainant is certainly in need of an explanation for her refusal to stay at the matrimonial home. I also take note of the relevant submission made by the learned counsel for the petitioner that for a proper investigation into the allegations, considering the nature of the allegations, arrest and incarceration of the petitioner is not necessary.

5. In the result, this petition is allowed. Following directions are issued under Section 438 Cr.P.C:

i) Petitioner shall surrender before the learned Magistrate having jurisdiction at 11 a.m on 07/07/2007.

ii) He shall be released on regular bail on condition that he executes bond for Rs.50,000/-(Rupees fifty thousand only) with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

iii) The petitioner shall make himself available for interrogation before the investigating officer between 10 a.m and 4 p.m on 08/07/2007, 09/07/2007 and 10/07/07 and thereafter on all Mondays and Fridays between 10 a.m and 12 noon for a period of three months and thereafter as and when directed by the investigating officer in writing to do so.

(iv) If the petitioner does not appear before the learned Magistrate as directed in clause (i), directions issued above shall thereafter stand revoked and the police shall be at liberty to arrest the petitioner and deal with them in accordance with law, as if these directions were not issued at all.

(v) If he was arrested prior to 07/07/2007, he shall be released on bail on his executing a bond for Rs.50,000/- (Rupees fifty thousand only) without any sureties, undertaking to appear before the learned Magistrate on 07/07/2007.

(R.BASANT, JUDGE)

jsr

// True Copy// PA to Judge

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007